

**IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 04-12448GAO

GMAC MORTGAGE CORPORATION,)
Plaintiff)
v.)
JEFFREY L. BAYKO, SR., LISA J. BAYKO,)
HELEN E. BAYKO, MICHAEL J. BAYKO,)
BANKNORTH GROUP, HANS R. HAILEY,)
CHARLES D. ROTONDI, COMMONWEALTH)
OF MASSACHUSETTS DEPARTMENT OF)
REVENUE, THE UNITED STATES OF)
AMERICA, GARY EVANS, CHRISTINE ANN)
FARO, AND JOHN AQUINO,)
Defendants)

OPPOSITION TO
PLAINTIFF'S MOTION TO DEPOSIT SURPLUS FUNDS INTO COURT
AND WITHDRAW

Michael and Helen Bayko appreciate GMAC's desire to withdraw. However, they are concerned that a Motion to Dismiss for Lack of Jurisdiction is pending.

They respectfully ask that this Court deny the motion at this time or defer consideration on the motion until such time as jurisdiction has been finally determined.

At such time this Court decides that it has jurisdiction and the applicable appeal period for the jurisdiction decision has run, Michael and Helen Bayko will withdraw their objection to the Plaintiffs motion to deposit funds and withdraw.

Respectfully submitted,
Michael Bayko and Helen Bayko
by their attorney,

February 10, 2005

/s/ Timothy D. Sullivan

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CERTIFICATE OF SERVICE

I, Timothy D. Sullivan, hereby certify that Michael and Helen Bayko's Opposition to the Plaintiff's Motion to Deposit Surplus Funds Into Court and Withdraw has been served by first class mail, postage prepaid on this 10th day of February, 2005 to all parties of record or their record attorney.

/s/ Timothy D. Sullivan

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